

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ANTWAUN FREEMAN,	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO. 23-CV-2655
	:	
WARDEN WILLIAMS, <i>et al.</i>	:	
Defendants.	:	

ORDER

AND NOW, this 14th day of July, 2023, upon consideration of Plaintiff Antwaun Freeman's Motion to Proceed *In Forma Pauperis* (ECF No. 1), Prisoner Trust Fund Account Statement (ECF No. 3), and *pro se* Complaint (ECF No. 2), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED** pursuant to 28 U.S.C. § 1915.
2. Antwaun Freeman, #QN-6590, shall pay the full filing fee of \$350 in installments, pursuant to 28 U.S.C. § 1915(b), regardless of the outcome of this case. The Court directs the Superintendent of SCI Chester or other appropriate official to assess an initial filing fee of 20% of the greater of (a) the average monthly deposits to Freeman's inmate account; or (b) the average monthly balance in Freeman's inmate account for the six-month period immediately preceding the filing of this case. The Superintendent or other appropriate official shall calculate, collect, and forward the initial payment assessed pursuant to this Order to the Court with a reference to the docket number for this case. In each succeeding month when the amount in Freeman's inmate trust fund account exceeds \$10.00, the Superintendent or other appropriate official shall forward payments to the Clerk of Court equaling 20% of the preceding month's income credited to Freeman's inmate account until the fees are paid. Each payment shall refer to the docket number for this case.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Superintendent of SCI Chester.

4. The Complaint is **DEEMED** filed.

5. For the reasons stated in the Court's Memorandum, the following claims are **DISMISSED WITHOUT PREJUDICE** for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii):

- a. Freeman's claims against all Defendants in their official capacity;
- b. Freeman's failure to protect claim raised against Sgt. Jenkins; and
- c. Freeman's claims for deliberate indifference to medical needs, which were raised against Defendants Warden Williams, Chief Leech, John Doe, and John Doe.

6. The only claims remaining in this lawsuit at this time are Freeman's Eighth Amendment failure to protect claims against Lt. Moore and Sgt. Jones in their individual capacity.

7. The Clerk of Court is **DIRECTED** to send Freeman a blank copy of the Court's standard form complaint for prisoners to use to file a complaint bearing the above civil action number.¹

8. Freeman is given thirty (30) days to file an amended complaint if he chooses to attempt to amend the defects in the claims that the Court dismissed. Any amended complaint shall identify all defendants in the caption of the amended complaint in addition to identifying them in the body of the amended complaint, shall state the basis for Freeman's claims against

¹ This form is available on the Court's website at <http://www.paed.uscourts.gov/documents/forms/frmcf1983f.pdf>.

each defendant, and shall bear the title “Amended Complaint” and the case number 23-2655. If Freeman files an amended complaint, his amended complaint must be a complete document that includes all of the bases for Freeman’s claims, including claims that the Court has not yet dismissed if he seeks to proceed on those claims. Claims that are not included in the amended complaint will not be considered part of this case. **This means that if Freeman files an amended complaint, he must reassert his Eighth Amendment claims against Lt. Moore and Sgt. Jones, including the relevant underlying facts, if he intends to proceed on those claims.**

When drafting his amended complaint, Freeman should be mindful of the Court’s reasons for dismissing his claims as explained in the Court’s Memorandum. Upon the filing of an amended complaint, the Clerk shall not make service until so **ORDERED** by the Court.

9. If Freeman does not file an amended complaint the Court will direct service of his initial Complaint on Defendants Lt. Moore and Sgt. Jones only. Freeman may also notify the Court that he seeks to proceed on these claims rather than file an amended complaint. If he files such a notice, Freeman is reminded to include the case number for this case, 23-2258.

10. The time to serve process under Federal Rule of Civil Procedure 4(m) is **EXTENDED** until the Court directs service.

BY THE COURT:

/s/ Juan R. Sánchez
JUAN R. SÁNCHEZ, C.J.